

David Cosson
ATTORNEY AT LAW

5151 Wisconsin Ave, N.W.
Washington, D.C. 20016

Telephone (202) 333-5275

Via ECFS

September 20, 2018

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

Re: Petition of Pioneer Telephone Cooperative, Inc. For Waiver of 47 C.F.R. Sections 36.3, 36.123-126, 36.141, 36.152-157, 36.191 and 36.372-382 To Unfreeze Part 36 Category Relationships. CC Docket No. 80-286.

Written *Ex Parte* filing

Dear Ms. Dortch:

Pioneer Telephone Cooperative, Inc. (“Pioneer”) hereby provides additional information with respect to issues raised by the Comments and Reply Comments of the National Association of Regulatory Utility Commissioners (“NARUC”)¹ regarding the Commission’s Further Notice of Proposed Rulemaking (“FNPRM”) in this proceeding.² Pioneer’s initial comments focused on its position that the Commission should, and indeed is legally obligated to, act promptly on Pioneer’s waiver petition that has been pending five and one half years, regardless of when or how it resolves the FNPRM. Pioneer did not object to the proposal to extend the current separations freeze for 15 years, but also did not address the statutory role of the Joint Board in changing the separations rules.

NARUC argues in essence that because the FNPRM proposes substantive changes to the existing Part 36 Separations, Section 410(c) of the Communications Act obligates the

¹ Initial Comments of the National Association of Regulatory Utility Commissioners (NARUC Initial Comments), filed August 27, 2018, *In the Matter of Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286. Reply Comments filed September 10, 2018.

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In the Matter of Jurisdictional Separations and Referral to the Federal-State Joint Board, CC Docket No. 80-286, Further Notice of Proposed Rulemaking, FCC 18-99 (July 18, 2018) (FNPRM). 83 Fed. Reg. 35582, Jul. 27, 2018.

Commission to first refer the question to the Federal-State Joint Board on Separations and that the Commission has generally recognized this obligation with respect to the freeze beginning with the 2001 Order. NARUC notes also that the multiple prior extensions of the freeze were enacted in the context of being interim or temporary measures pending major substantive changes, but that the proposed 15 year extension cannot be called either interim or temporary.

Because NARUC's statutory argument must be taken seriously by the Commission, there is a strong possibility that action on the FNPRM cannot occur in the near future. Such a delay would include delaying the proposal for an "opt-out" option for rate-of-return carriers with frozen separations categories. This potential delay provides additional justification for Pioneer's request that the Commission proceed promptly to grant its waiver petition.

NARUC's Reply Comments noted that prior separations category waiver requests "were always discussed with the State members of the Joint Board" but that Pioneer's Comments on the FNPRM did not discuss the obligations of Section 410(c). Following the filing of its Petition, Pioneer did discuss its waiver request with the state-members of the Joint Board, none of which filed objections to grant of the petition.³

Please address any questions in this matter to me.

Respectfully submitted

David Cosson
Counsel to Pioneer Telephone Cooperative, Inc.

cc:

Lisa Hone
Pamela Arluk
William Kehoe
Edward Krachmer
Douglas Slotten
James Bradford Ramsay

³ Pioneer *Ex Parte* Notices November 7, 2013, February 7, 2014.